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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,640	12/14/2001	William R. Matz	36968/265387	9378
23552	7590	07/26/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			OUELLETTE, JONATHAN P	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/017,640

Applicant(s)

MATZ ET AL.

Examiner

Jonathan Ouellette

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13,15-22 and 32-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-13,15-22 and 32-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20050126, 20050315.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Request for Continued Examination*

1. The Request filed on 4/30/2005 for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/017,640 is acceptable and a RCE has been established. An action on the RCE follows.

### *Response to Amendment*

2. Claims 4, 14, and 23-31 have been cancelled, and Claims 42-46 have been added; therefore, Claims 1-3, 5-13, 15-22 and 32-46 are currently pending in application 10/017,640.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-2, 6-13, 15-22 and 32-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Boe et al. (US 6,236,975 B1).**

3. As per **independent Claims 1, 16, 17, and 35**, Boe discloses a method (computer-readable medium, system) for utilizing information relating to a subscriber to identify said subscriber (C3 L23-43, profile generation and target marketing) comprising: receiving data from a plurality of programming (C3 L23-30, Internet survey system – demographic data, survey response, customer requests, customer) and advertising sources (C4 L30-38, business system); receiving viewing information associated with the subscriber (C5 L39-navigation history); the viewing information indicating whether the subscriber viewed data from the programming and advertising sources (C5 L39-navigation history); receiving a subscriber attribute (C3 L23-43, survey results and demographics), the subscriber attribute comprising data about the subscriber (C3 L23-43, survey results and demographics); merging said data from the plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store (C5 L39-54, Matching Database Tables); matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and analyzing the matched data to determine a probability of the subscriber to purchase the product associated with the advertisement attribute, the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement for the product (C5 L39-54, C6 L1-67, Matching Database/Page Generator).
4. As per Claim 2, Boe discloses wherein said subscriber comprises a consumer (Abstract, Customer).

5. As per Claim 6, Boe discloses wherein said subscriber attribute comprises demographic information (C3 L23-28).
6. As per Claim 7, Boe discloses wherein said demographic information comprises a profession of said subscriber (C3 L23-27, income/income level – would offer equivalent demographic matching information).
7. As per Claim 8, Boe discloses wherein said demographic information comprises a property ownership history of said subscriber (Fig.6B, Vehicle).
8. As per Claims 9, Boe discloses wherein said subscriber attribute comprises a questionnaire response (C3 L28-43, Survey response).
9. As per Claim 10, Boe discloses wherein said subscriber attribute comprises a purchase (Fig.4d).
10. As per Claim 11, Boe discloses wherein said purchase comprises a purchase of a product, wherein said product complements a product provided by said provider (C4 L58-60, application for product or service).
11. As per Claim 12, Boe discloses wherein said purchase comprises a purchase of a product, wherein said product competes with a product provided by said provider (Figs.4b-6b, spending history survey results – ex. type of vehicle).
12. As per Claim 13, Boe discloses wherein said provider comprises a content provider (C12 L16-22, business – product or service provider).
13. As per Claims 15, Boe discloses wherein said content provider comprises an advertising provider (C4 L30-40, business system).

14. As per Claim 18, Boe discloses wherein said subscriber attribute database comprises a purchase history database (Figs.4d-4e, C5 L39-54, survey answers, navigation history, application table).
15. As per Claim 19, Boe discloses wherein said purchase history database comprises a credit card database (Figs.4d-4e).
16. As per Claims 20 and 21, Boe discloses wherein said subscriber attribute database comprises a property ownership database or a survey results database (Fig.6b, C5 L39-54, demographics, tables).
17. As per Claim 22, Boe discloses wherein said data analyzer comprises a report creator (C7 L9-27, graphical report generator).
18. As per Claim 36, Boe discloses wherein the step of receiving said subscriber attribute comprises receiving said subscriber attribute that identifies said subscriber as a consumer of a provider (C4 L58-60, application for product or service), said provider identifying the advertisement attribute, and wherein the step of analyzing the matched data to determined said probability of the subscriber to purchase said product associated with the advertisement attribute further comprises analyzing said purchase of the consumer to determine said subscriber's likelihood to purchase a different product of said provider (Figs.4b-6b, C6 L58-67, Survey results/demographic matching analysis).
19. As per Claim 37, Boe discloses wherein the step of receiving said subscriber attribute comprises receiving said subscriber attribute that identifies a profession (C3 L23-27, income/income level – would offer equivalent demographic matching information) of said subscriber, and wherein the step of analyzing the matched data to determine said

probability of the subscriber to purchase said product associated with the advertisement attribute further comprises analyzing the profession of said subscriber to determine said probability of the subscriber to purchase said product (Figs.4b-6b, C6 L58-67, Survey results/demographic matching analysis).

20. As per Claim 38, Boe discloses wherein the step of receiving said subscriber attribute comprises receiving said subscriber attribute that identifies a property ownership (Fig.6b, vehicles) history of said subscriber, and wherein the step of analyzing the matched data to determine said probability of the subscriber to purchase said product associated with the advertisement attribute further comprises analyzing the property ownership history of said subscriber to determine said probability of the subscriber to purchase said product (Figs.4b-6b, C6 L58-67, Survey results/demographic matching analysis).
21. As per Claim 39, Boe discloses wherein the step of receiving said subscriber attribute comprises receiving a questionnaire response (Survey Response) from said subscriber, and wherein the step of analyzing the matched data to determine said probability of the subscriber to purchase said product associated with the advertisement attribute further comprises analyzing the questionnaire response of said subscriber to determine said probability of the subscriber to purchase said product (Figs.4b-6b, C6 L58-67, C7 L1-8, Survey results/demographic matching analysis).
22. As per Claim 40, Boe discloses wherein the step of receiving said subscriber attribute comprises receiving a purchase of a product (C4 L58-60, receive application for service or product) by said subscriber, and wherein the step of analyzing the matched data to determine said probability of the subscriber to purchase said product associated with the

advertisement attribute further comprises analyzing the purchase of the product to determine a probability of the subscriber to purchase a complimentary product (Figs.4b-6b, C5 L43-54, C7 L1-8, Survey results/demographic matching analysis – application table part of matching system).

23. As per Claim 41, Boe discloses wherein the step of receiving said subscriber attribute comprises receiving a purchase of a competitive product (Figs.4b-6b, spending history survey results – ex. type of vehicle) by said subscriber, and wherein the step of analyzing the matched data to determine said probability of the subscriber to purchase said product associated with the advertisement attribute further comprises analyzing the purchase of the competitive product to determine said probability of the subscriber to purchase said product (Figs.4b-6b, C5 L43-54, C7 L1-8, Survey results/demographic matching analysis).
24. As per Claims 42-44, Boe discloses communicating (computer code/communications interface) the selected advertisement for the product associated with the advertisement attribute to the desirable subscriber (C3 L44-67, C6 L58-67).
25. As per Claim 45, Boe discloses the advertisement attribute comprising a viewing history correlation for said product and a demographic correlation for said product (C5 L39-67, C6 L1-67, Matching Database – demographic table and navigation history table).
26. As per Claim 46, Boe discloses wherein said data from plurality of programming and advertising sources comprises multimedia content (C7 L9-27, Graphical reports) communicated via a communications channel, the communications channel comprising a



remote broadcast communications channel and a local network communications channel (C3 L44-67, possible communication formats).

27. As per **independent Claims 32-34**, Boe discloses a method (computer-readable medium, system) for utilizing information relating to a subscriber to identify said subscriber (C3 L23-43, profile generation and target marketing) comprising: receiving data from a plurality of programming (C3 L23-30, Internet survey system – demographic data, survey response, customer requests, customer) and advertising sources (C4 L30-38, business system); receiving viewing information associated with the subscriber (C5 L39-navigation history), the viewing information indicating whether the subscriber viewed real-time data from a source other than the plurality of programming and advertising sources (C5 L39-data available as part of navigation history records); receiving a subscriber attribute (C3 L23-43, survey results and demographics), the subscriber attribute comprising data about the subscriber; merging said data from a plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store (C5 L39-54, Matching Database Tables); matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and analyzing the matched data to determine a probability of the subscriber to purchase said product associated with the advertisement attribute, the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement. (C5 L39-54, C6 L1-67, Matching Database/Page Generator).

***Claim Rejections - 35 USC § 103***

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**29. Claims 3 and 5 are rejected under 35 U.S.C. 103 as being unpatentable over Boe.**

30. As per Claims 3 and 5, Boe fails to expressly show wherein said data from the plurality of programming and advertising sources comprises television programming data or duration information.

31. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The method (computer-readable medium, system) for utilizing information relating to a subscriber, to identify said subscriber as a desirable subscriber would be performed regardless of the type of content-access information used. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

32. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to perform the method (computer-readable medium, system) using television programming data or duration information as the content-access information, because such data does not functionally relate to the steps in the method claimed and

because the subjective interpretation of the content-access information does not patentably distinguish the claimed invention.

***Response to Arguments***

33. Applicant's arguments filed 4/30/2005, with respect to Claims 1-3, 5-13, 15-22 and 32-46, have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

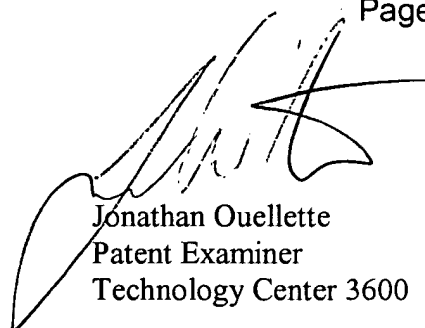
34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
35. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
36. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

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July 12, 2005

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